

**BOARD OF PSYCHOLOGY**

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**BOARD MEETING MINUTES**

**Hotel De Anza**  
**233 W. Santa Clara Street**  
**San Jose, CA 95113**  
**(408) 286-1000**

**Friday, February 4, 2005**

The open session meeting was called to order by the President, Jacqueline Horn, Ph.D., at 10:00 a.m. A quorum was present and due notice had been sent to all interested parties.

**Members Present:**

Jacqueline Horn, Ph.D., President  
William Thomas, Ph.D., Vice-President  
Howard Adelman, Ph.D.  
Ellen Graff, Ph.D.  
Sylvia Johnson  
James McGhee  
Ronald Ruff, Ph.D.  
William Lew Tan

**Others Present:**

Thomas O'Connor, Executive Officer  
Jeffrey Thomas, Assistant Executive Officer  
LaVonne Powell, Legal Counsel  
Kathi Burns, Enforcement/Probation Coordinator  
Kris Rose, Licensing/Registration Program Coordinator

**Public Present:**

Patricia J. Rose, Ph.D., San Diego Psychological Association  
B.J. Combs, MCEP Accrediting Agency  
Charles Faltz, Ph.D., California Psychological Association  
Allison Parelman, Ph.D., Los Angeles Society of Clinical Psychologists

**Agenda Item #1 – Committee Meetings**

The Continuing Education Committee, Examination Committee, and Enforcement Committee met to discuss and formulate recommendations to the board.

**Agenda Item #2 – Committee Meetings**

The Credentials Committee, Legislation Committee, and Consumer Education Committee met to discuss and formulate recommendations to the board.

### **Agenda Item #3 – Discussion re: Governor’s Reorganization Plan**

Nancy Hall, Deputy Directory of Board Relations for the Department of Consumer Affairs (DCA), presented an overview of Governor Schwarzenegger's plan to eliminate boards and move their functions to the DCA. Ms. Hall expressed the department's commitment to work with the boards through this transition. Ms. Hall entertained questions and comments from the board members.

Overall, board members expressed their concern that elimination of the board would significantly undermine the protection of consumers of psychological services and erode public access and public confidence. Specifically, the members emphasized that the proposed changes would undermine the essential public and professional leadership required to ensure effective accountability related to enforcement of discipline for unprofessional conduct by licensed psychologists; continuous improvement on the content and validity of the licensing examination for psychologists; evolution of continuing education requirements to enhance practitioners competence and ethical practice; and anticipation and timely strategic planning for changes in the rapidly evolving field of psychology.

It was M(Tan)/S(Graff)/C that Drs. Horn and Adelman prepare a letter expressing the board's sentiments addressed to the Little Hoover Commission and to the Legislature.

VOTE: 8 Ayes

### **Agenda Item #4 – Office of Examination Resources Validation Report**

Tracy A. Montez, Ph.D., Chief of the Office of Examination Resources (OER), presented the findings of the validation study for the profession of psychology conducted by OER. Ms. Montez described the purpose of the study, the technical and legal considerations, the occupational analysis process and its results, along with OER's recommendations. OER recommends that the board:

- 1) Implement a new examination outline based on a practical transition plan;
- 2) Change the current name of the examination (CJPEE) to a state-specific examination name, such as the California Psychology Supplemental Examination (CPSE) to better reflect the content; and
- 3) Continue to meet mandates set forth in Business and Professions Code section 139.

Dr. Ruff, the Chairperson of the Examination Committee, thanked Ms. Montez and the OER for a job well done and expressed a desire to move as quickly as possible to implement the recommendations of OER.

Mr. O'Connor indicated that he and Ms. Montez will meet soon to begin the process necessary to implement the recommendations.

The board adjourned into closed session at 2:00 p.m.

**Saturday, February 5, 2005**

The open session meeting was called to order by the President, Jacqueline Horn, Ph.D. at 8:30 a.m. A quorum was present and due notice had been sent to all interested parties.

**Members Present:**

Jacqueline Horn, Ph.D., President  
Howard Adelman, Ph.D.  
Ellen Graff, Ph.D.  
James McGhee  
Ronald Ruff, Ph.D.  
William Lew Tan

**Others Present:**

Thomas O'Connor, Executive Officer  
Jeffrey Thomas, Assistant Executive Officer  
LaVonne Powell, Legal Counsel  
Kathi Burns, Enforcement/Probation Coordinator  
Kris Rose, Licensing/Registration Program Coordinator

**Public Present:**

Patricia J. Rose, Ph.D., San Diego Psychological Association  
B.J. Combs, MCEP Accrediting Agency  
Charles Faltz, Ph.D., California Psychological Association  
Allison Parelman, Ph.D., Los Angeles Society of Clinical Psychologists  
Nicole Schwarz, Center for Public Interest Law

**Agenda Item #7 – Approval of Open Session Minutes**

It was M(McGhee)/S(Tan)/C to approve the November 19-20, 2004, open session minutes.

VOTE: 6 Ayes

**Agenda Item #8 – President's Report**

**a) Strategic Plan Report**

Dr. Horn reported that the board met on Thursday, February 3, 2005 to review and revise its Strategic Plan for fiscal year 2005/2006. This session was facilitated by Travis McCann, Manager of the Department of Consumer Affairs' (DCA) Training & Development Services. Some of the new objectives that were formulated were incorporated from the recent Sunset Review preliminary recommendations. Board staff will document the changes and additions and bring it back for review and approval at the next board meeting.

**b) Sunset Review Report**

**1) Recommendation re: Restitution**

Dr. Horn, Ph.D., reported that she and Mr. O'Connor appeared before the Joint Committee on Boards, Commissions, and Consumer Protection on January 5, 2005, regarding the board's Sunset Review Report. The hearing went quickly and smoothly. Preliminary recommendations were provided to the board, and the final recommendations will be forthcoming.

One of the various topics addressed by the Committee was the issue of restitution for consumers. As such, the board has placed this item in its Strategic Plan. Mr. O'Connor reported that restitution is a complex and a cross-cutting issue for many boards. He reported that the Joint Committee indicated that it might be helpful to consumers if an administrative action could result in restitution for consumers, thus eliminating the need for the consumer to go through a separate, civil, action to recover monetary damages.

Mr. O'Connor reported that other cross-cutting issues were recommended in the preliminary report that will need to be addressed by the DCA and other boards and programs. Additionally, Mr. O'Connor reported that the sunset review process was an introspective and valuable process for board staff that resulted in many new ideas.

**c) Other President's Informational Items**

None.

**Agenda Item #9 – Executive Officer's Report**

**a) 2006 Meeting Calendar**

It was M(Tan)/S(McGhee and Graff)/C to approve the meeting calendar.

VOTE: 6 Ayes

**b) Department of Consumer Affairs Reorganization**

Mr. O'Connor reported that as a result of a discussion at the board meeting the prior day between the board and Nancy Hall, Deputy Director of Board Relations, the board decided to be proactive in opposing the reorganization by sending a letter to the Little Hoover Commission and the Legislature. Additionally, Dr. Horn will follow the letter with direct contact with its recipients.

**c) Other Executive Officer Informational Items**

None.

**Agenda Item #10 – Legal Counsel's Report**

**a) Court of Appeal Decision Regarding Tarasoff Warnings**

LaVonne Powell, Legal Counsel for the board, discussed a recent Court of Appeal case relating to Civil Code Section 43.92. The court ruled in that case that "a communication from a family member to a therapist, made for the purpose of advancing a patient's therapy, is a "patient communication" within the meaning of section 43.92" and "a therapist's duty to warn a victim arises if the information communicated leads the therapist to believe or predict that the patient poses a serious risk of grave bodily injury to another." The appellate court remanded the case back to the trial court stating that "summary judgment was erroneously granted inasmuch as the communication to the therapist by a member of patient's family of the patient's threat to kill or cause grave bodily injury to the victim raised a triable issue concerning the therapist's duty to warn the victim. Dr. Faltz, representing the California Psychological Association stated that his organization was considering legislation to limit the duty to warn under section 43.92 to only those communications that come directly from the patient.

**b) Public Meetings Update**

Ms. Powell reported that a complete copy of the Bagley-Keene Open Meeting Act will be provided to the board members and she advised the members about the importance of following the act consistently as interpreted by the Legal Office. She encouraged the members to call her or Mr. O'Connor directly if they had any questions regarding public meetings.

Dr. Adelman asked for information regarding publishing the board's agenda in a manner that would allow for future topics by both the board and the public to be addressed. Ms. Powell suggested that the board add to its agenda sections that would allow future meeting agenda items to be discussed when considering whether to add it to the next board meeting agenda. Additionally, she suggested that the board list the topics to be discussed under each committee meeting to make it clear to the public the intended topics.

Ms. Powell will assist board staff in preparing the agenda for the next board meeting.

**c) Other Legal Counsel Informational Items**

None.

**Agenda Item #11 – Regulation Hearings**

**a) Citation and Fine (Section 1397.51)**

Dr. Horn conducted the hearing on the Citation and Fine Regulation.

Dr. Horn reported that no written comment had been made and offered an opportunity for public comment. Staff submitted a draft of modified text to the proposed language as the original draft contained verbiage that was not specific. Hearing no public comment Dr. Horn closed the hearing and the board discussed the proposed regulation.

It was M(Ruff)/S(Adelman)/C to adopt the proposed regulation changes as amended and delegate the authority to staff to prepare the 15-day Notice of Proposed Changes and accept any comments received.

VOTE: 6 Ayes

**b) Continuing Education Requirements (Section 1397.61(f))**

Dr. Horn conducted the hearing on the Continuing Education Requirements.

Mr. Thomas reported that written comments had been received, and copies of the documents were distributed. Judy Hall, Ph.D., Executive Officer of the National Register of Health Service Providers in Psychology, submitted a written comment pointing out that the terminology used in the proposed language is not consistent with the terminology used by the American Psychological Association or the American Board of Professional Psychology. Another comment was submitted by B.J. Combs, Director of the MCEP Accrediting Agency (MCEPAA). Mr. Combs provided recommended language that would address Dr. Hall's concerns. He also pointed out that the proposed language does not require licensees who accrue continuing education in this manner to report the course and submit the course reporting fee to MCEPAA. Mr. Combs expressed his appreciation for the changes made and the opportunity to be of assistance.

It was M(Tan)/S(Ruff)/C to adopt the proposed regulation changes as amended and delegate the authority to staff to prepare the 15-day Notice of Proposed Changes and accept any comments received.

VOTE: 6 Ayes

#### **Agenda Item #12 - Regulation Update**

**a) Supervised Professional Experience and Registered Psychologists/Registered Psychological Assistants (Sections 1387-1387.7 and 1389.1-1391.11)**

Mr. Thomas reported that the regulation process was complete, and revised sections 1387-1387.7 and 1389.1-1391.11 became effective January 1, 2005.

**b) Distance Learning Continuing Education (Section 1397.60)**

Mr. Thomas reported that the regulation process was complete, and revised section 1397.60 became effective January 1, 2005.

**c) Continuing Education Training Requirements (Section 1397.62)**

Mr. Thomas reported that the regulation process was complete, and revised section 1397.62 became effective January 9, 2005

**d) Other Regulation Update Informational Items**

None.

#### **Agenda Item #13 - Continuing Education Report**

**a) Discussion of an Overall Framework to Guide Discussion about Continuing Education**

Dr. Adelman reported on a letter that was sent to directors of graduate programs, providers of continuing education, and others with expertise on January 19, 2005. This letter was sent along with a starter outline to solicit input for developing a working framework to guide continuing education development.

**b) Other Continuing Education Informational Items**

Dr. Adelman reported that due to the uncertainty of the board's continued existence after June 30, 2005, the following continuing education issues need to be placed on the May 2005 board meeting agenda for discussion:

- 1) the possibility of allowing all 36 hours of CE to be taken via self-study/distance learning; and
- 2) altering the process for updating related to laws and ethics. The possible change related to the laws and ethics requirement would allow for meeting it through various forms of training and experience, with the individual renewing his or her license by certifying under penalty of perjury that he or she has obtained the relevant updated knowledge.

Allison Parelman, Ph.D., representing the Los Angeles Society of Clinical Psychologists, expressed concern that the proposed changes to the laws and ethics course requirement

might get moved along too quickly and not allow for enough public comment. She expressed the importance of the laws and ethics course as a tool to ensure that psychologists are current with the changes in the laws and ethics.

Patricia Rose, Ph.D., representing the San Diego Psychological Association, indicated that the proposed change to the laws and ethics requirement may be too drastic, and that perhaps a modification of the restrictive nature of the language be changed to some other alternative.

Dr. Ruff suggested that a simple needs analysis be conducted to determine the usefulness of the laws and ethics requirement as it stands. Dr. Adelman agreed to assist Mr. O'Connor in preparing such an analysis in order to obtain results prior to the May 2005 board meeting.

It was M(Ruff)/S(Graff)/C to conduct a limited needs assessment regarding the effectiveness of the current laws and ethics continuing education requirement.

Both continuing education issues will be discussed and perhaps acted upon at the May 2005 board meeting.

#### **Agenda Item #14 – Credentials Committee Report**

##### **a) Committee Chairperson Report**

Dr. Graff reported that the Credentials Committee needs to discuss the possibility of obtaining the services of psychologist experts to assist the board in evaluating supervised professional experience obtained in the areas of non-mental health services. She requested that this topic be placed on the May 2005 board meeting agenda.

##### **b) Other Credentials Informational Items**

None.

#### **Agenda Item #15 – Examination Committee Report**

##### **a) Examination Update**

Dr. Ruff reported that on the prior day, Tracy Montez, Ph.D., Chief of the Office of Examination Resources, presented the findings of the recently conducted Occupational Analysis and the resulting recommendations. He reported that OER's study was reliable and that they are committed to updating the current exam in an accurate and expeditious manner.

##### **b) Other Examination Informational Items**

None.

#### **Agenda Item #16 - Enforcement Committee Report**

##### **a) Enforcement Statistics**

The enforcement statistics for the period of July 1, 2004 through December 31, 2004, were provided to the board.

##### **b) Expert Nominations**

Ms. Burns reported that three expert reviewer applications were reviewed. Two applicants will be asked for additional information and one applicant was accepted as an expert.

**c) Complaint Disclosure Policy**

Mr. O'Connor reported that currently the board has a policy regarding complaint disclosure; however, it has been recommended by the DCA's Legal Office that it be put into regulation. He explained that while this new language appears to allow the board to disclose complaint information sooner than what is currently done, the board already discloses such complaints at an early juncture through the use of the Interim Suspension Order process.

The board discussed the proposed draft language and requested Ms. Powell work with the language in section 1397.13(d)(1) to remove references to investigation and add an evidentiary requirement prior to disclosure of a complaint.

Dr. Rose expressed concern for this language in that it would allow a completely false, yet extreme complaint to be disclosed before determining its validity.

**d) Other Enforcement Informational Items**

Ms. Burns reported that the board will hold it's annual Expert Reviewer Training at the CPA Convention in Pasadena, CA on April 7, 2005. Martin Greenberg, Ph.D., former board President, will be presenting at the training on issues related to the standard of care.

**Agenda Item #17 – Legislation Committee Report**

**a) Discussion of Bills of Interest to the Board**

Mr. McGhee reported that the only new bill of interest to the board was the Governor's reorganization plan, however, that topic had already been addressed under the Executive Officer's report.

**b) Other Legislation Informational Items**

Dr. Faltz announced that CPA may introduce legislation regarding record retention that would require psychologists to be included in the current law that dictates record retention for medical facilities and other health care organizations.

**Agenda Item #18 – Consumer Education Committee**

**a) Website Statistics**

The website statistics were provided to the board.

**b) Consumer Outreach Update**

Mr. Thomas reported that a letter was mailed on January 11, 2005 to 80-90 community-based organizations providing copies of the board's consumer literature and encouraging these organizations to provide and translate the materials as needed. No feedback has been received as of yet. Staff plans to follow-up with these organizations in approximately four months.

**c) BOP Update 12**



BOP Update 12 was provided to the board. Mr. Thomas reported that the newsletter was mailed out in January 2005.

The board is receiving input for the next BOP Update. An examination update and a continuing education update may be included in the upcoming newsletter.

**d) Other Consumer Education Informational Items**

None.

**Agenda Item #19 - Public Comment on Items Not on the Agenda**

Dr. Rose asked the board to address the issue of the 5 million-dollar loan that was taken by the Department of Finance and whether the board would be seeking its return. The board thanked Dr. Rose for bringing this up and directed the topic to be placed on the agenda for discussion at the next meeting.

The open session meeting adjourned at 11:00 a.m.

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Jacqueline Horn, PhD  
President

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Date